


Work Health and Safety investigations and prosecutions

Information for injured workers and families

Document title	Work Health and Safety investigations and prosecutions
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Approved by	Executive Director, Peggy Cheong
Date approved	July 2023
Document review	Annually
TRM number	NTWS2022/0467-0009

Version	Date	Author	Changes made
1.0	February 2023	Tanya McKeon	First Version.
1.1	September 2023	Tanya McKeon	Approved by ED 
1.2	March 2024	P. Chan	Inclusion of NT WorkSafe Support Officer

Acronyms	Full form
LAS	Licensing and Advisory Services
NTWS	NT WorkSafe
WHS	Work Health and Safety

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Introduction

NT WorkSafe is the Territory's work health and safety regulator. We work with workers, duty holders and stakeholders to ensure compliance with their duties under the Work Health and Safety (National Uniform Legislation) Act and other related legislation. NT WorkSafe staff, officers and inspectors also work with all relevant parties to identify and address work health and safety risks to reduce the number of work-related injuries and fatalities in the Northern Territory.

NT WorkSafe acknowledges that along with the wider impact on workers with serious injury, there is significant ongoing impacts on friends and family associated with workplace injuries and fatalities. We are committed to assisting injured workers, friends and family who have been affected by workplace injuries or fatalities.

The assistance and cooperation of injured workers, witnesses, friends and families of injured workers is crucial in investigations and prosecutions of appropriate cases carried out by NT WorkSafe. Those directly impacted or involved in an investigation or prosecution include a person seriously injured and their next of kin, the next of kin for a person fatally injured and business, workers and other duty holders involved in the incident.

This guide has been created to provide information for injured workers, witnesses and families in circumstances where an investigation and / or prosecution has commenced. NT WorkSafe aims to improve transparency and communication with all affected parties.

NT WorkSafe has incorporated the National Compliance and Enforcement Policy and the National Principles of Safe Work Australia in this guide. The Customer Service Standard of SafeWork NSW has also been referred to in preparing this guide. These procedures align with strategic objectives in the NT WorkSafe Strategic Plan of reducing harm and securing compliance as well as the Northern Territory Charter of Victims' Rights.

The guide ensure that injured workers and families are provided clarity around the progress and status of investigations and prosecutions.

Investigations

Not all incidents notified to NT WorkSafe will be investigated. Incidents that may be referred for investigations will usually involve reasonable belief that a potential breach of the work health and safety legislation has occurred.

The purpose of an investigation is to determine the causes of an incident and then assess whether a breach of a work health and safety duty was the sole, or contributing factor to the incident. Once NT WorkSafe's Investigation Unit accepts a matter for investigation, further information will be gathered including:

- interviewing injured persons, when they are fit to do so
- gathering documentation, information and records from other parties such as businesses, manufacturers or suppliers, NT Police, Department of Health and health care providers
- interviewing people who may assist us in better understanding the circumstances leading up to the incident, including witnesses, co-workers, supervisors and business representatives
- collecting further physical evidence
- assistance or advice from technical experts (where required and as appropriate).

Once the Investigator has gathered sufficient evidence, a brief of evidence will be prepared which may include the statements, interviews, photographs and other information obtained in response to notices which will be used in a Court of Law. A report may also be prepared for the Coroner based on the evidence gathered during the investigation in matters involving a fatality or a disaster where public safety was substantially endangered.

An Investigation Report will be completed and provided to the Regulator who will decide whether:

- No further action be taken.
- A Referral be sent to the Compliance Unit for further actions.
- Legal proceedings to be commenced.

Prosecutions

Charges will be filed against the defendant in the Local Court. The legal process can take considerable time, particularly if the defendant contests the criminal charge. If the defendant pleads guilty or is convicted after the hearing or trial, the matter will progress to sentencing. Injured persons or family members of fatally injured workers may have an entitlement to provide a Victim Impact Statement to the Court which will be considered by the Judge on sentencing.

How NT WorkSafe will keep you informed

NT WorkSafe are committed to completing investigations within a timely manner. Investigations and any subsequent prosecutions can be quite complex. It may take up to two years until a prosecution is finalised in Court.

NT WorkSafe understands the importance of keeping injured workers and families updated and involved in the investigation and prosecution process whilst maintaining the integrity of the investigation.

The NT WorkSafe Support Officer will be your primary contact at NT WorkSafe.

The Support Officer will communicate with you:

- to advise when a matter has been referred to the Investigations Unit and allocated to the Investigator
- once an investigation has commenced, an update will be provided at least once in every 6 to 8 weeks
- when a matter has been closed with no further action or managed by way of Infringement or other Notice.

The Support Officer will also communicate with families and injured workers to:

- provide support and updates during proceedings before the Court
- the time, date and place of any court dates
- general description of the charges laid
- advise of Court decisions, even in the event where no conviction is recorded against the defendant
- advise if an application for an Enforceable Undertaking is received.

You can advise the support officer at any stage how you prefer to be kept informed e.g. by phone or email. If you do not wish to be kept informed during the progress of the investigation, you can advise the support officer of this at any time.

Due to privacy legislation and other legal requirements, NT WorkSafe will only be able to provide limited information in relation to investigations that are active or where legal proceedings are before the Courts. If information or evidence is disclosed prior to an investigation being completed, it may prejudice the investigation or lead to evidence contamination.

Principles

NT WorkSafe recognise that injured workers and families have the right:

1. To be provided with important and relevant information in a timely and accessible manner.
2. To receive and have access to clear information in a variety of forms, which enables them to exercise their preferences.
3. To be kept abreast of the progress of an investigation unless the disclosure might jeopardise the investigation.
4. To be kept informed in a timely manner of the charges laid against the defendant and the court process, their rights in relation to attending any trial or hearing and their role in the justice system, including as a witness for the prosecution.
5. To be advised when a decision is taken not to proceed with charges, and upon request, the reasons for taking such action.
6. To have the opportunity to give feedback to NT WorkSafe and advocate for change or reform to meet the needs of those significantly impacted by industrial death or serious injury.

Northern Territory Charter of Victims' Rights

The Northern Territory Government ensures that victims of crime have a strong voice in the justice system with better protections and access to vital services.

The Charter of Victims' Rights outlines the core key principles that the NT Government aim to comply with. The Charter of Victims' Rights can be found here:

- [Northern Territory Charter of Victims' Rights](#)

Victim Impact Statement

If you have been harmed by a crime, you have the right to tell a court how it has affected you. A victim impact statement is usually a written statement presented by the prosecutor to the court. It is given after the defendant has been found guilty and before they are sentenced.

It can help the court understand how you have been harmed before they decide how the offender will be punished. The Prosecution and defendant's legal representative will review the Victim Impact Statement, so it is important your statement complies with rules of the court.

You can choose not to make a statement.

Return of property

If any of your property or your family member's property is held by NT WorkSafe for the purpose of investigation or evidence, this property will be returned to you at the earliest practical opportunity.

Financial Assistance for victims and families affected

If you are an injured worker or family member affected by an incident due to a breach of Work Health and Safety Legislation, you may be eligible to claim financial assistance. Injured workers may be eligible to make a workers compensation claim, Further information is available in the [Workers guide to workers' compensation](#).

Family and dependants of a worker who had died from a workplace incident may be eligible to make a death claim for financial assistance. For further information on death claims, email datantworksafe@nt.gov.au or call 1800 250 713.

Financial Assistance for attending court to provide evidence

If you are a witness subpoenaed to court to give evidence (other than an expert witness) you are entitled for reimbursement for your loss of wages. NT WorkSafe has a Witness Expense Claim procedure.

If you are needing to travel interstate to attend court, NT WorkSafe will be in touch to organise airfares, accommodation and travel allowance.

More information can be forwarded to you via emailing: AGD.NTWSP prosecutions@nt.gov.au or calling 1800 019 115 and asking to speak to the Investigations Assistant.